

SB 1463 (DeSaulnier)
As Introduced – February 19, 2010

FLEXIBLE PURPOSE CORPORATIONS
Fact Sheet

SUMMARY

SB 1463 will create a new type of corporation in California, the Flexible Purpose Corporation (FPC), to integrate the for-profit philosophy of the traditional corporation with a Special Purpose mission which is similar to a charitable purpose.

BACKGROUND

Over the past decade, the examples of company's pursuing both returns for investors and the achievement of some other Special Purpose has become a regular occurrence. As a result, many organizations both in the non-profit and the for-profit worlds have been "bending the arcs" of their respective corporate forms to achieve multiple or blended objectives. This creates potential liability and risk for managers with either shareholders (for-profits), or with the IRS, (non-profits).

Currently, the use of a traditional corporation creates a potential risk for directors making decisions on the basis of a Special Purpose, if it is done at the expense of maximizing financial returns for shareholders. This is because corporate boards and management generally have a fiduciary duty to act solely in the interest of maximizing shareholder value.

The traditional corporate form also presents a risk for the entrepreneur seeking to maintain the mission of a Special Purpose during the life of an early-stage corporation because investors may shift the company away from the original Special Purpose over time in favor of additional profitability instead.

PREVIOUS LEGISLATION

AB 2944 (Leno) of 2008 – Vetoed by the Governor

THIS BILL

SB 1463 will create a new type of corporation in California, the Flexible Purpose Corporation (FPC), to integrate the for-profit philosophy of the traditional corporation along with its statutory certainty and standardization with a Special Purpose mission.

The FPC will address the current obstacles that entrepreneurs and investors face with the traditional corporation and allow them to build an organization from the start that integrates achieving profitability and accomplishing its stated Special Purpose.

The FPC encourages and expressly permits companies to be formed or converted from other forms to pursue one or more purposes in addition to creating economic value for shareholders. To some extent, entities operating as a FPC may show characteristics of both for-profit and non-profit corporations.

A FPC must specify in its Articles of Incorporation at least one "Special Purpose" which is defined as:

- One or more charitable or public purpose activities; or
- The purpose of promoting positive short-term or long-term effects or minimizing adverse short-term or long-term effects of the FPC's activities on any of the following:
 - The FPC's employees, suppliers, customers and creditors;
 - The community and society; or
 - The environment.

STATUS

February 19th – Introduced

SUPPORT

- California Legal Working Group for New Corporate Forms (sponsor)
- B Lab
- iReuse
- Pacific Community Ventures, Inc.
- RSF Capital Management
- SABEResPODER
- Vianova Group, LLC

OPPOSITION

None Received

FOR MORE INFORMATION

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